

# SENATE RECORD VOTE ANALYSIS

105th Congress  
2nd Session

Vote No. 268

September 15, 1998, 2:37 p.m.  
Page S-10355 Temp. Record

## INTERIOR APPROPRIATIONS/Hardrock Mining Restrictions

**SUBJECT:** Department of the Interior and Related Agencies Appropriations Bill for fiscal year 1999 . . . S. 2237.  
Murkowski motion to table the Bumpers amendment No. 3591.

### ACTION: MOTION TO TABLE AGREED TO, 58-40

**SYNOPSIS:** As reported, S. 2237, the Department of the Interior and Related Agencies Appropriations Bill for fiscal year 1999, will provide \$13.658 billion in new budget authority, which is \$660 million less than requested. None of the funds in the bill will be used to implement actions called for solely under the Kyoto protocol (regarding so-called "greenhouse gases") prior to its ratification. More than \$8.23 billion will be generated from oil and gas leases, other mineral leasing activities, from timber and range programs, and from oil production from the naval petroleum reserves.

The Bumpers amendment would strike the section of the bill that will re

(See other side)

YEAS (58)			NAYS (40)			NOT VOTING (2)	
Republicans (45 or 82%)		Democrats (13 or 30%)	Republicans (10 or 18%)		Democrats (30 or 70%)	Republicans (0)	Democrats (2)
Allard	Hutchinson	Baucus	Abraham	Akaka	Kohl		Hollings- <sup>2</sup>
Ashcroft	Hutchison	Bingaman	Chafee	Biden	Landrieu		Mikulski- <sup>2</sup>
Bennett	Inhofe	Breaux	Coats	Boxer	Lautenberg		
Bond	Kempthorne	Bryan	Collins	Bumpers	Leahy		
Brownback	Kyl	Byrd	Gregg	Dodd	Levin		
Burns	Lott	Cleland	Jeffords	Durbin	Lieberman		
Campbell	Lugar	Conrad	Roth	Feingold	Moseley-Braun		
Cochran	Mack	Daschle	Snowe	Feinstein	Murray		
Coverdell	McCain	Dorgan	Specter	Glenn	Reed		
Craig	McConnell	Ford	Warner	Graham	Robb		
D'Amato	Murkowski	Inouye		Harkin	Rockefeller		
DeWine	Nickles	Moynihan		Johnson	Sarbanes		
Domenici	Roberts	Reid		Kennedy	Torricelli		
Enzi	Santorum			Kerrey	Wellstone		
Faircloth	Sessions			Kerry	Wyden		
Frist	Shelby						
Gorton	Smith, Bob						
Gramm	Smith, Gordon						
Grams	Stevens						
Grassley	Thomas						
Hagel	Thompson						
Hatch	Thurmond						
Helms							

#### EXPLANATION OF ABSENCE:

- 1—Official Business
- 2—Necessarily Absent
- 3—Illness
- 4—Other

#### SYMBOLS:

- AY—Announced Yea
- AN—Announced Nay
- PY—Paired Yea
- PN—Paired Nay

Federal environmental laws, including: the National Environmental Policy Act; the Federal Land Policy and Management Act; the Federal Water Pollution Control Act; the Safe Drinking Water Act; the Comprehensive Environmental Response, Compensation, and Liability Act (Superfund); the Toxic Substance Control Act; the Endangered Species Act; the Migratory Bird Treaty Act; and the Rivers and Harbors Act. Additionally, they must comply with extensive State and local environmental laws. For instance, environmental laws in Nevada that apply to mining companies include: the Nevada Air Pollution Control Law; the Nevada Water Pollution Control Law; the Nevada Hazardous Waste Disposal Law; the Nevada Solid Waste Disposal Law; the Nevada Reclamation Law; the Nevada Underground Storage Tank Law; the Nevada Wildlife Protection Law; the Nevada Water Resources Law; the Nevada Dredging Law; the Nevada Geothermal Resources Law; the Nevada Mineral Resources Law; and the Nevada Radioactive Materials Law. Moreover, detailed regulatory requirements have been imposed to comply with these laws. Most of these laws were enacted in the 1970s and 1980s. Before that time, little thought had been given to pollution, and considerable damage had been done to the environment.

Regulations to implement the Federal Land Policy and Management Act are commonly referred to as 3809 regulations. They require miners to submit plans for operations to the Bureau of Land Management (BLM) for approval. The regulations require mine operators to comply with all Federal and State environmental laws and regulations, they require the reclamation of any lands that are disturbed by mining, and they require bonds to be posted to assure reclamation. Over time, as Federal and State requirements have been added, the States have been delegated Federal responsibilities for water quality, air quality, solid waste management, and mine reclamation. Federal programs have been fully integrated into State environmental protection laws. The interwoven laws and regulations on mining that have developed form a complete and balanced net of environmental protections. It costs hundreds of thousands of dollars, requires dozens of environmental permits, and takes years of effort to open and operate a mine. Further, it is normal to require a site to be returned to its original appearance, right down to even requiring a mining company to transplant trees while mining and then to put them back in their original spots once mining is completed.

Unfortunately for the hundreds of thousands of people who work in the mining industry (which is concentrated in the West and which involves Federal lands of necessity because the Federal Government owns huge percentages of western States), environmentalists have seized upon hardrock mining as a cause celebre. They are opposed to any and all mining on Federal lands in the West, mostly out of a fanatical antipathy to any human presence on those lands as "unnatural." Their tactics to stop that mining include false assertions that present-day mines are polluting the environment and huge exaggerations about the problems that were created by mines before any environmental regulations existed. For instance, they like to say that there are 300,000 acres of Federal lands that have been damaged by mining in order to intimate that the West is becoming a gigantic strip mine. What they fail to mention is that in Nevada alone there are 75 million acres of Federal lands.

For the past six years, Interior Secretary Babbitt, and certain Members from States that do not have mining interests, have waged a concerted war against mining on Federal lands. The sponsor of this amendment in particular has offered numerous amendments (though he has been very concerned about the supposed pollution occurring in the West, he has had very little to say about the very real pollution being caused by poultry producers and others in his own State). Western Senators have studied the issue of mining on Federal lands, and they have found areas that need improvement. They have offered legislation, and they have offered to work with Interior Secretary Babbitt and other opponents of mining. Unfortunately, it seems as though opponents of mining are more interested in brinkmanship than compromise.

Last year Secretary Babbitt seemed to have reached the conclusion that he could not force through Congress the changes in law he wants enacted so that he can shut down mining, so he arrogated to himself the power to legislate through regulation. He redrafted the 3809 regulations to impose new, sweeping requirements on mining on Federal lands. Under the proposed new rules, for instance, the BLM could no longer just accept State or Environmental Protection Agency determinations on water quality standards. In addition to those determinations, the BLM would also have to apply new surface and ground water standards. These proposed regulations were drafted without consulting the States to see how they would affect State laws, nor were they drafted based upon any analysis of need, nor were they drafted with consideration to the different needs of the States (based on such factors as climate, geological conditions, and types of mining that occur). When Secretary Babbitt came up with these rules, Governors in the West, both Democratic and Republican, were outraged. In response, we tried to add a provision to last year's Interior Appropriations Bill to stop regulatory changes from being made without the approval of the Governors of the affected States. President Clinton threatened a veto. We then changed the language to require only that Secretary Babbitt certify that he had consulted with the Governors. Just 3 days after that bill passed he made that certification. Obviously he had not consulted with the Governors in any meaningful way, and the Governors in fact said he had not consulted with them. His action was obviously meant to show his utter contempt for Congress and the law. By certifying, however falsely, that he had complied, he could then issue his regulations to strangle mining on Federal lands.

Last year we obviously put too much faith in the current Secretary's respect for the law. Therefore, this year we have added a provision that will take the issue away from him and will give it to nonpolitical experts to decide. This bill will require the National Academy of Sciences (NAS) to study the current laws and regulations and recommend any changes that it deems necessary. In other words, it will first determine if there is a need, and, if it determines there is a need, it will then recommend an appropriate solution.

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We are willing to leave this matter up to the NAS. It is certainly better than letting the Secretary ignore the law, ignore the affected parties, and make a political decision. Our colleagues claim that no study is needed because an NAS study was completed in 1979 (we note that a study was made for the current regulations) and because an environmental group that opposes mining studied the issue in 1996 and said changes were needed. Those claims are pretty tenuous. We are not going to support the imposition of a raft of new and conflicting regulatory requirements until we have a new, unbiased, and expert analysis that can show why they are necessary. Also, we are not going to let an unelected bureaucrat engage in legislation by regulation. We therefore strongly support the motion to table the Bumpers amendment.

**Those opposing** the motion to table contended:

If the American people were allowed to vote we are certain that the Bumpers amendment would pass overwhelmingly. The American people, if they had the facts, would not support the current hardrock mining law for mining on public lands. That law, which is more than 100 years old, results in billions of dollars worth of gold, silver, and other precious minerals being given away to private companies, many of which are owned by foreigners. It also results in massive amounts of environmental pollution that the taxpayers of America have to pay to clean up. There are already more than 500,000 abandoned mines on Federal lands, and 300,000 acres have been damaged. Secretary Babbitt, to his everlasting credit, has fought tenaciously to reform this horrendous state of affairs. We have done everything in our power to help him legislatively, but our powers of persuasion have not been great enough to sway a majority of our colleagues. Year after year our attempts to enact reforms have failed. Thankfully, we have had a few minor successes. For instance, last year we were able to get our colleagues to drop a requirement that would have required the Governor of each affected State to approve Federal regulatory changes, which Secretary Babbitt not only has a right but a duty to make, before they could go into effect. The idea86 -1.221 T60t that woulda ve ablould